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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,664	12/21/2000	Ayoub Rashtchian	0942.3910003/RWE/BJD	7736
26111 7:	590 11/18/2002			
STERNE, KESSLER, GOLDSTEIN & FOX PLLC			EXAMINER	
	RK AVENUE, N.W., SUI N, DC 20005-3934	SOUAYA, JEHANNE E		
			ART UMIT	PAPER NUMBER
			1634	1.
			DATE MAILED: 11/18/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

09/741,664

Rashtchian et al

Examiner

Jehanne Souaya

Art Unit **1634**



The MAILING DATE of this communication appears on the cover sheet with the correspondence address						
Period 1	for Reply					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.						
- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.						
- If NO p - Failure - Any re	period for reply specified above is less than thirty (30) days, a reply within the period for reply is specified above, the maximum statutory period will apply at to reply within the set or extended period for reply will, by statute, cause the ply received by the Office later than three months after the mailing date of the patent term adjustment. See 37 CFR 1.704(b).	nd will expire SIX (6) N e application to become	MONTHS fr ABANDO	om the mailing date of this communication. DNED (35 U.S.C. § 133).		
Status	,					
1) 💢	Responsive to communication(s) filed on Dec 21, 20	000		·		
2a) 🗌	This action is FINAL . 2b) 💢 This action is non-final.					
3) 🗌	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.					
Disposit	tion of Claims					
4) 💢	Claim(s) <u>1-59</u>			is/are pending in the application.		
4	a) Of the above, claim(s)			is/are withdrawn from consideration.		
5) 🗆	Claim(s)			is/are allowed.		
6) 🗌	Claim(s)	. <u> </u>		is/are rejected.		
7) 🗔	Claim(s)	·		is/are objected to.		
8) 🗶	Claims <u>1-59</u>	are s	subject	to restriction and/or election requirement.		
Applica	tion Papers					
9) 🗆	The specification is objected to by the Examiner.			·		
10)	The drawing(s) filed on is/are	a) accepted	or b)	\Box objected to by the Examiner.		
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
11)	The proposed drawing correction filed on	is:	a) 🗌 a	pproved b) \square disapproved by the Examiner.		
	If approved, corrected drawings are required in reply to this Office action.					
12)	The oath or declaration is objected to by the Examin	ner.				
Priority under 35 U.S.C. §§ 119 and 120						
13)	Acknowledgement is made of a claim for foreign pr	riority under 35	U.S.C.	§ 119(a)-(d) or (f).		
a) 🗀	☐ All b)☐ Some* c)☐ None of:					
	1. \square Certified copies of the priority documents have	e been received	l.			
,	2. \square Certified copies of the priority documents have	e been received	l in App	lication No		
	3. Copies of the certified copies of the priority do application from the International Burea	au (PCT Rule 17	7.2(a)).			
*S	ee the attached detailed Office action for a list of the					
14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).						
a) L The translation of the foreign language provisional application has been received.						
15)∟	Acknowledgement is made of a claim for domestic	priority under 3	5 U.S.	C. §§ 120 and/or 121.		
Attachm		а. П	/57	A 440) Donne Ne/e)		
	tice of References Cited (PTO-892)	F		0-413) Paper No(s).		
	2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6) Other:					
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DETAILED ACTION

The examiner reviewing your application at the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to examiner Jehanne Souaya.

Election/Restriction

Claims 37-43 will be examined with whichever group is elected.

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-33, 35, and 44-59 are, drawn to compositions comprising a thermostable enzyme or a thermostable DNA polymerase, kits comprising such compositions, and methods of using such compositions, classified in class 435, subclass 6.
 - II. Claims 34 and 36, drawn to methods of amplifying or sequences comprising using a composition containing a thermostable 3'exo+ and a thermostable 3'exo- DNA polymerase in equal or different concentrations, classified in class 435, subclass 91.2.
- 2. The inventions are distinct, each from the other because of the following reasons: the composition and method of Group I are different from the method of Group II. The methods of amplification and sequencing of Group II do not require the composition of group I, which require only a single thermostable DNA polymerase. Further, the methods of sequencing of group I do not require the composition used in the method of Group II, that is a composition comprising both a thermostable 3'exo- and a thermostable 3'exo+ DNA polymerase in equal or

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different concentrations. The inventions require different reagents, reaction parameters and reaction conditions, and are patentably distinct from each other.

- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- 4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.
- 5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- 6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).
- 7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Jehanne Souaya whose telephone number is (703)308-6565. The examiner can normally be reached Monday-Friday from 9:00 AM to 6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones, can be reached on (703) 308-1152. The fax phone number for this Group is (703) 305-3014.

Any inquiry of a general nature should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Jehanne Souaya

Jehanne Souaya

Patent examiner

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11/14/02